

Agricultural Marketing Service, USDA

§ 927.122

shall issue to that grower such exemption certificate as the Control Committee shall determine to be proper.

§ 927.114 Appeal to Secretary.

Any grower who is dissatisfied with the Control Committee's determination with respect to any appeal by that grower from a decision by an exemption committee or by the Secretary of the Control Committee with respect to that grower's application for an exemption certificate, may appeal from such determination by the Control Committee to the Secretary of Agriculture. Any such appeal shall be made by filing with the secretary of the Control Committee a written notice of appeal within fifteen (15) days after notice to that grower of the aforesaid determination by the Control Committee. Promptly upon receipt of notice of an appeal signed by the applicant, the secretary of the Control Committee shall forward to the Secretary of Agriculture, or to his designated representative, a true and correct copy of all information pertaining to that grower's application for an exemption certificate and the action taken thereon by the Control Committee, together with such written information and proof as was submitted to or obtained by the Control Committee with regard to said application, and a true copy of the appellant grower's notice of appeal.

EXEMPTIONS AND SAFEGUARDS

§ 927.120 Pears for charitable or by-product purposes.

Pears which do not meet the requirements of the then effective grade, size, or quality regulations shall not be shipped or handled for consumption by any charitable institution or for distribution by any relief agency or for conversion into any by-product, unless there first shall have been delivered to the manager of the Control Committee a certificate executed by the intended receiver and user of said pears showing, to the manager's satisfaction, that said pears actually will be used for one or more of the aforesaid purposes.

§ 927.121 Pears for gift purposes.

There are exempted from the provisions of the marketing agreement and

order any and all pears which, in individual gift packages, are shipped directly to, or which are shipped for distribution without resale to, an individual person as the consumer thereof, and any and all pears which, in individual gift packages are shipped directly to, or are shipped for distribution without resale to, a purchaser who will use these pears solely for gift purposes and not for sale.

§ 927.122 Shipments to designated storages.

(a) Pears may be shipped without prior inspection and certification to any public warehouse in Yakima, Zillah, Wenatchee, or Grandview in the State of Washington; in Portland, Klamath Falls, or Medford in the State of Oregon; or in Tulelake or Yuba City in the State of California, for storage therein in transit: *Provided*, That any pears so shipped shall be inspected, and a certificate issued with respect thereto, as provided in § 927.60 of the marketing agreement and order, prior to such pears being removed from such warehouse. At the time any pears are so shipped into such public storage warehouse and again when such pears are shipped out of such warehouse, the handler shall, on his "Handler's Statement of Pear Shipments," report each such shipment as prescribed in § 927.125(b).

(b) Any pears shipped to one of the aforesaid storage warehouses pursuant to this section which, upon inspection, do not meet the requirements of the then effective grade, size, or quality regulations may be (1) repacked at such warehouse so as to meet such requirements, (2) sold and delivered within the state where such warehouse is located for processing or conversion into by-products, or (3) returned to the state where the pears were produced for repacking or for sale within such state: *Provided*, That there first shall have been submitted to the manager of the Control Committee proof, satisfactory to the manager, that the pears will not be handled contrary to the provisions of the marketing agreement and order; such proof shall include, in the case of sale and delivery for by-products purposes, a written certificate, executed by both the handler and

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the intended receiver, stating that the pears will be processed or converted into by-products within the state where such warehouse is located.

[16 FR 10926, Oct. 27, 1951. Redesignated at 26 FR 12751, Dec. 30, 1961, and amended at 32 FR 13181, Sept. 16, 1967; 40 FR 42851, Sept. 17, 1975; 58 FR 34691, June 29, 1993]

§ 927.123 Interest and late payment charges.

Payments received more than 45 days after the date on which they are due shall be considered delinquent and subject to a late payment charge of \$25.00 or 2 percent of the total due, whichever is greater. Payments received more than 60 days after the date on which they are due shall be subject to a 1½ percent interest charge per month, until final payment is made and interest shall be applied to the total unpaid balance, including the late payment charge and any accumulated interest. Any amount paid shall be credited when the payment is received in the Control Committee office.

[58 FR 34691, June 29, 1993]

REPORTS

§ 927.125 Reports.

(a) Each shipper handling pears covered by an exemption certificate shall keep an accurate record, in the manner provided on such certificate, of all shipments of such pears. Such shipper, after having shipped as many pears as authorized by the particular exemption certificate, shall promptly mail to the Secretary of the Control Committee, such handler's copy of the exemption certificate containing an accurate record of such shipments.

(b) Each handler shall furnish to the Control Committee, as of every other Friday, a report containing the following information on Form 1 "Handlers' Statement of Pear Shipments":

(1) The number of standard western pear boxes (two half boxes shall be counted as one box) of each variety of pears shipped by that handler during the preceding two weeks;

(2) The date of each shipment;

(3) The ultimate destination, by city and state or city and country; and

(4) The name and address of such handler. In addition, the handler shall

indicate, for each lot of pears shipped in accordance with the provisions of § 927.122, the storage lot number, and the name and address of the storage warehouse.

(c) Each handler shall furnish to the Control Committee, as of every other Friday, a "Handler's Packout Report" containing the following information:

(1) The total of the packout of each variety;

(2) The quantity of each variety loose in storage;

(3) The volume of each variety sold; and

(4) The name and address of such handler.

(d) Each handler who has shipped less than 2,500 standard western pear boxes during any two-week reporting period of the shipping season may, in lieu of reporting biweekly, report as follows:

(1) At completion of harvest, on the next biweekly reporting date, furnish to the Control Committee a "Handler's Packout Report";

(2) After unreported shipments total 2,500 standard western pear boxes, furnish to the Control Committee a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report" on the next biweekly reporting date;

(3) After completion of all shipments from regular storage (i.e. non-Controlled Atmosphere storage) at the end of the shipping season, furnish to the Control Committee a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report" on the next biweekly reporting date;

(4) At mid-season for Controlled Atmosphere storage, at a date established by the Control Committee, furnish to the Control Committee a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report"; and

(5) At the completion of all seasonal pear shipments, furnish to the Control Committee a "Handler's Statement of Pear Shipments" and a "Handler's Packout Report" on the next biweekly reporting date. Each of these reports shall be marked "final report" and include an explanation of the actual shipments versus the original estimate, if different.

(e) Each handler who has pears inspected and certificated in lots larger